

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  Tamar Terzian (CA Bar No. 254148) <a href="mailto:terzian@kingobk.com">terzian@kingobk.com</a> TERZIAN LAW GROUP, APC 315 W. Arden Avenue, Suite # 28 Glendale, CA 91203 Telephone: 818.242.1100  Alan G. Tippie (CA Bar No. 89587) <a href="mailto:atippie@sulmeyerlaw.com">atippie@sulmeyerlaw.com</a> SulmeyerKupetz, A Professional Corporation 333 South Hope Street, Thirty-Fifth Floor Los Angeles, CA 90071-1406 Telephone: 213.626.2311  <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> General and Special Counsel to Robert Boyajian	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION</b>	
In re:  ROBERT BOYAJIAN,    Debtor(s).	CASE NO.: 8:14-bk-10918-ES CHAPTER: 11          <b>NOTICE OF SALE OF ESTATE PROPERTY</b>

<b>Sale Date:</b> December 15, 2015	<b>Time:</b> 10:30 a.m.
<b>Location:</b> 255 East Temple Street, Los Angeles, California 90012, Courtroom "1568"	

**Type of Sale:** ☒ Public ☐ Private **Last date to file objections:** December 1, 2015

**Description of property to be sold:** 2222 East First Street, Santa Ana, California (APN 402-181-11)

**Terms and conditions of sale:** Free and clear of liens, claims, encumbrances and/or interests and subject to the attached overbid procedures; the Property is being sold on an "as is, where is" basis, with no warranties, recourse, contingencies, or representations of any kind.

Particular sale terms and conditions are set forth in the Sale and Purchase Agreement ("PSA"), which is attached as Exhibit 1 to the Sale Motion ("Motion") filed with the Bankruptcy Court on November 6, 2015 [Docket No. 179]

**Proposed sale price:** \$11,000,000.00

Overbid procedure (if any): See Attached Overbid Procedures

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If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

December 15, 2015

10:30 a.m.

411 West Fourth Street

Courtroom "5A"

Santa Ana, CA 92701

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Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Robert Boyajian

Telephone: (714) 381-1402

Email: [robertboyajian@gmail.com](mailto:robertboyajian@gmail.com)

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Date: November 13, 2015

### **PROPOSED OVERBID PROCEDURES**

Any person or entity desiring to submit an overbid must, prior to the hearing on the Motion (collectively, "Qualification Items"):

- (i) Cashier's Check. Deliver a cashier's check, made payable to "Robert Boyajian, Debtor in Possession," in the amount of Three Hundred Fifty Thousand Dollars U.S. (\$350,000.00) (the "Deposit");
- (ii) Contract Terms. Confirm that he, she or it is accepting the terms and conditions of the Sale as set forth in the PSA and the Overbid Procedures, other than price;
- (iii) Overbid Amount. Confirm that he, she or it is prepared to submit an overbid for the Property in an amount no less than the Minimum Qualified Overbid (defined below); and
- (iv) Financial Wherewithal. Provide evidence of the financial wherewithal to close a sale of the Property at a price equal to the Minimum Qualified Overbid .

Such Qualification Items must be submitted to special counsel for the Debtor prior to the above-captioned hearing on the Motion and before an initial bid is made. Upon the submission of such items, to the satisfaction of the Debtor in his sole discretion, the party may be deemed a "Qualified Overbidder" and may submit a "Qualified Overbid".

Except upon default by the Seller, the Deposit submitted by the successful Buyer or Qualified Overbidder is non-refundable should such Buyer or Qualified Overbidder be unable or unwilling to close escrow for purchase of the Property. Deposits from any party that is not ultimately deemed to be the successful bidder shall be returned.

The Inspection Period/Due Diligence Investigation Period, as defined in section 3(a) of the PSA, will have expired prior to the time of the hearing and, therefore, all Qualified Overbidders that submit a Qualified Overbid shall be deemed to have given the Approval Notice as defined in section 3(b) of the PSA. Namely, all due diligence is to be completed prior to the hearing, as the Sale is on an "as is, where is" basis with no warranties, representations, recourse, or contingencies of any kind.

### **OVERBID AMOUNT AND TERMS**

Subject to Court approval, the Debtor recommends that the first overbid be no less than **Eleven Million One Hundred Fifty Thousand Dollars U.S. (\$11,150,000.00)**, cash (the "Minimum Qualified Overbid"), which is \$150,000.00 higher than the sales price in the current PSA of \$11,000,000.00. The Debtor further proposes that subsequent overbids

be made in increments of no less than **\$25,000.00**. The Debtor reserves the right to reject any and all overbids that, in his business judgment, are insufficient or do not qualify with the overbid terms and conditions.

The successful bidder must pay the full amount of the successful bid to the Debtor according to the terms and conditions in the PSA. In the event that the successful buyer does not close the sale in accordance with the terms of the PSA, (i) the sale to such buyer shall be deemed terminated and cancelled without further order of court, (ii) the Deposit and any subsequent deposits shall be forfeited to the bankruptcy estate free and clear of any liens, claims or interests, and (iii) the Debtor shall be authorized to accept the offer made by the next highest Qualified Overbidder (the "Back-Up Bidder") and close the sale of the Property to such Back-Up Bidder.

If the Debtor timely receives a higher and better offer (as determined by the Debtor in his sole discretion) than the offer submitted by the Buyer from a Qualified Overbidder, an auction will be conducted at the hearing set for the Motion, either in the courtroom or elsewhere, as ordered by the Court. At the commencement of the auction, the Debtor will announce the opening bid, which will be the "Initial Qualified Overbid" that the Debtor determines, in his sole discretion, is the highest and best Qualified Overbid. During the auction, any Qualified Overbidder may submit an overbid in excess of the last submitted overbid, provided such overbid is no less than \$25,000.00 more than the immediately preceding overbid.

In the event the Debtor receives multiple Qualified Overbids in the same amount, the Debtor will consider the Qualified Overbids in the order in which they are received and shall advise the party or parties that did not submit the first duplicate Qualified Overbid that it must make a higher Qualified Overbid to be eligible to further participate in the auction of the Property.

Should the Buyer or a Qualified Overbidder submit an overbid that is ultimately not deemed to be the successful final overbid for the Property, any such party may agree that its last overbid may be deemed a back-up bid ("Back-Up Bid") should the successful bidder fail to timely close escrow. If such party so agrees, it shall be deemed a "Back-Up Bidder" and the following additional provisions shall apply:

- a. Retention of Deposit. The Deposit of the Back-Up Bidder (the "Back-Up Deposit") shall be retained by the Debtor pending closing of the sale to the successful Qualified Overbidder. Should the sale to the successful Qualified Overbidder close, the Back-Up Deposit will be returned promptly.

- b. Substitution of Buyers. Should the sale to the successful Qualified Overbidder fail to close, the Back-Up Bidder will be notified in writing by the Debtor, after which notification the Back-Up Bidder will "step into the shoes" of the successful bidder at whatever stage of the Agreement exists at the time of such notification, subject to the price offered by the Back-Up Bidder at the hearing as approved by the Court.

Should the Back-Up Bidder fail to timely consummate the purchase of the Property, the Debtor shall retain for the benefit of the Estate as liquidated damages for such failure, the Deposit tendered to the Debtor in connection with the Qualified Overbid and any additional monies paid towards the purchase price ("Deposits"), which Deposits shall be retained free and clear of any and all claims and interests.

The Debtor will request authority from the Court to sell the Property to the Buyer or to the bidder that makes the most favorable Qualified Overbid (the "Winning Bidder"), and for authority to sell the Property to the Back-up Bidder if the Winning Bidder fails to perform.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
**333 South Hope Street, Thirty-Fifth Floor, Los Angeles, California 90071-1406**

A true and correct copy of the foregoing document entitled: **"NOTICE SALE OF ESTATE PROPERTY"** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):** Pursuant to controlling General Orders and LBR's, the foregoing document will be served by the court via NEF and hyperlink to the document. On November 13, 2015, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Ralph Ascher on behalf of Creditor Ralph Ascher  
ralphascher@aol.com, richardvergeldedios@gmail.com

Greg P Campbell on behalf of Creditor The Bank of New York Mellon, f/k/a The Bank of New York, successor in interest to JPMorgan Chase Bank, N.A. as Trustee for Bear Stearns Asset Backed Securities Trust 2003-AC3, Asset-Backed Certificate  
ch11ecf@aldridgepite.com, gc@ecf.inforuptcy.com;gcampbell@aldridgepite.com

Greg P Campbell on behalf of Creditor U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust and the laon servicer, Caliber Home Loans, Inc.  
ch11ecf@aldridgepite.com, gc@ecf.inforuptcy.com;gcampbell@aldridgepite.com

Greg P Campbell on behalf of Creditor Alan J Cohen  
ch11ecf@aldridgepite.com, gc@ecf.inforuptcy.com;gcampbell@aldridgepite.com

Matthew R Clark on behalf of Interested Party Courtesy NEF  
ch11ecf@aldridgepite.com, mrc@ecf.inforuptcy.com;mclark@aldridgepite.com

Alan J Cohen on behalf of Creditor Alan J Cohen  
acohen@cohenlawla.com

Robert P Goe on behalf of Interested Party Courtesy NEF  
kmurphy@goeforlaw.com, rgoe@goeforlaw.com;mforsythe@goeforlaw.com

Robert P Goe on behalf of Interested Party Wermers Properties  
kmurphy@goeforlaw.com, rgoe@goeforlaw.com;mforsythe@goeforlaw.com

Michael J Hauser on behalf of U.S. Trustee United States Trustee (SA)  
michael.hauser@usdoj.gov

Mark S Horoupian on behalf of Interested Party Mark Horoupian SulmeyerKuptez, APC  
mhoroupian@sulmeyerlaw.com,  
ppenn@sulmeyerlaw.com;mhoroupian@ecf.inforuptcy.com;ppenn@ecf.inforuptcy.com

Elizabeth A Lossing on behalf of U.S. Trustee United States Trustee (SA)  
elizabeth.lossing@usdoj.gov

Casey J OConnell on behalf of Creditor The Bank of New York Mellon, f/k/a The Bank of New York,  
casey@caseyoconnelllaw.com, colaw@ecf.inforuptcy.com

Casey J OConnell on behalf of Interested Party Courtesy NEF  
casey@caseyoconnelllaw.com, colaw@ecf.inforuptcy.com

Paul V Reza on behalf of Creditor SchoolsFirst Federal Credit Union  
pvr1789@gmail.com, PVRLaw@gmail.com

Tamar Terzian on behalf of Debtor Robert Boyajian  
terzian@kingobk.com, cynthia@kingobk.com

Alan G Tippie on behalf of Debtor Robert Boyajian  
atippie@sulmeyerlaw.com, ppenn@sulmeyerlaw.com;atippie@ecf.inforuptcy.com;ppenn@ecf.inforuptcy.com

United States Trustee (SA)  
ustpreion16.sa.ecf@usdoj.gov

Robert G Uriarte on behalf of Interested Party Robert G Uriarte  
robert@uriarte-wood.com

Jennifer C Wong on behalf of Creditor U.S. Bank Trust, N.A., As Trustee For Lsf9 Master Participation Trust, Its  
Assignees And/Or Successors, By And Through Its Servicing Agent Caliber Home Loans, Inc.  
bknotice@mccarthyholthus.com

Kirsten A Worley on behalf of Interested Party Courtesy NEF  
kw@wlawcorp.com, admin@wlawcorp.com

☐ Service information continued on attached page.

**2. SERVED BY UNITED STATES MAIL:** On November 13, 2015, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first-class postage prepaid, and addressed as follows. *Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.*

Avison Young, LTD  
Voit Real Estate Services  
c/o Mark Evanoff  
6711 Forest Lawn Drive  
Los Angeles, CA 90068

Orange County Treasurer-Tax Collector  
12 Civic Center Plaza, Room G40  
P.O. Box 1438  
Santa Ana, CA 92701-1438

☐ Service information continued on attached page.

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on November 13, 2015, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. *Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.*

Honorable Erithe A. Smith  
United States Bankruptcy Court  
Ronald Reagan Federal Bldg.  
411 West Fourth Street, Suite 5040  
Santa Ana, CA 92701-4593

Robert Boyajian – Via Email  
robertboyajian@gmail.com

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 13, 2015	Patricia Penn	/s/ Patricia Penn
<i>Date</i>	<i>Printed Name</i>	<i>Signature</i>